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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
THEIN, MARIA TERESA T	

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MASANORI TAKEUCHI,
YOSHIAKI GOMI, and
MASAAKI MAKINO

Appeal 2010-005625
Application 10/057,927
Technology Center 3600

Before HUBERT C. LORIN, BIBHU R. MOHANTY, and
MEREDITH C. PETRAVICK, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Masanori Takeuchi et al. (Appellants) seek our review under 35 U.S.C. § 134 (2002) of the final rejection of claims 10, 11, and 16. We have jurisdiction under 35 U.S.C. § 6(b) (2002). Oral arguments were presented on July 12, 2011.

SUMMARY OF DECISION

We AFFIRM.[1]

THE INVENTION

This invention is an apparatus for processing sales data related to selling tickets. *See* Specification 1:11-18.

Claim 10, reproduced below, is illustrative of the subject matter on appeal.

> 10. A data processing apparatus, comprising:
>
> data communication means for executing a data communication with a portable electronic terminal having a data file configured to store owner information identifying an owner of the portable electronic terminal;
>
> program transmission means for transmitting a program to the portable electronic terminal by the data communication means, wherein the program causes the portable electronic terminal to display a request to send data screen for selecting whether to or not to permit the transmission of the stored

[1] Our decision will make reference to the Appellants' Appeal Brief ("Br.," filed Aug. 3, 2009) and the Examiner's Answer ("Answer," mailed Dec. 11, 2009).

owner information when the transmission of the owner information is selected on the request to send data screen, and to transmit the owner information to the data processing apparatus when the transmission of the owner information is permitted;

data reception means for receiving the owner information sent from the portable electronic terminal through the data communication means according to the program sent to the portable electronic terminal by the program transmission means;

means for determining whether a ticketing process should be executed;

means for confirming a requested ticket through an inquiry to a ticket company via a network when the ticketing process is requested, for receiving information regarding the requested ticket from the ticket company via the network, and for storing the received information as ticket printing data with the owner information received from the portable electronic terminal; and

means for transmitting and outputting the ticket printing data to a printer.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Wada	US 5,689,503	Nov. 18, 1997
Morrill	US 5,991,749	Nov. 23, 1999
Lewis	US 2003/0105641 A1	Jun. 5, 2003
Sasaki	US 7,392,226 B1	Jun. 24, 2008

The following rejections are before us for review:

1. Claims 10 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sasaki, Morrill, and Lewis.
2. Claim 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Sasaki, Morrill, Lewis, and Wada.

ANALYSIS

The rejection of claims 10 and 11 under § 103(a) as being unpatentable over Sasaki, Morrill, and Lewis.

The Appellants argue claims 10 and 11 as a group. *See* Br. 4-6. We select claim 10 as the representative claim for this group, and the remaining claim 11 stands or falls with claim 10. 37 C.F.R. § 41.37(c)(1)(vii) (2010).

The Appellants argue that none of Sasaki, Morrill, and Lewis teaches the program transmission means, data reception means, and means for storing the received information recited in claim 1. *See* Br. 4-6. Specifically, the Appellants' argument is directed to whether the combination of Sasaki, Morrill, and Lewis teach the act of performing the recited functions (e.g. the act of combining and storing the received information as ticket printing data with the owner information received from the portable electronic terminal). *Id.* However, claim 10 is directed to an apparatus not to a method. Claim 10 is directed to an apparatus with limitations written in means-plus-function language. Therefore, the relevant issue is not whether the combination of references teach the act of performing the recited functions, but whether the combination of references teach the corresponding structure or an equivalent. *See* 35 U.S.C. 112, sixth paragraph.

> The first step in construing a means-plus-function claim limitation is to define the particular function of the claim limitation. *Budde v. Harley-Davidson, Inc.,* 250 F.3d 1369, 1376 (Fed.Cir.2001). "The court must construe the function of a means-plus-function limitation to include the limitations contained in the claim language, and only those limitations." *Cardiac Pacemakers, Inc. v. St. Jude Med., Inc.,* 296 F.3d 1106, 1113 (Fed.Cir.2002).... The next step in construing a means-plus-function claim limitation is to look to the specification and identify the corresponding structure for that function. "Under this second step, 'structure disclosed in the specification is "corresponding" structure only if the specification or prosecution history clearly links or associates that structure to the function recited in the claim."' *Med. Instrumentation & Diagnostics Corp. v. Elekta AB,* 344 F.3d 1205, 1210 (Fed.Cir.2003) (quoting *B. Braun Med. Inc. v. Abbott Labs.,* 124 F.3d 1419, 1424 (Fed.Cir.1997)).

Golight Inc. v. Wal-Mart Stores Inc., 355 F.3d 1327, 1333-34 (Fed. Cir. 2004).

For both the program transmission means and the data reception means the Appellants point to radio communication means 33 as the corresponding structure. Br. 2-3. The Appellants also point to page 13, lines 20-page 14, page 18, lines 6-20, and page 19, lines 7-16 of the Specification (*Id.*), which describes the radio communication means 33 as a Bluetooth ® used to send and receive information. The Appellants fail to argue that the combination of Sasaki, Morrill, and Lewis does not teach a radio communication means or an equivalent.

For the means for storing the received information the Appellants point to RAM 20, step S7, and page 19, line 24-page 20, line 2 (Br. 3), which describes storing data on the RAM 20. Again, the Appellants fail to argue that the combination of Sasaki, Morrill, and Lewis does not teach a random access memory (RAM) or an equivalent.

Accordingly, we are not persuaded by the Appellants' argument, and we find that the Appellants have not overcome the rejection of claims 10 and 11 under 35 U.S.C. § 103(a) over Sasaki, Morrill, and Lewis.

The rejection of claims 16 under §103(a) as being unpatentable over Sasaki, Morrill, Lewis, and Wada.

We also shall sustain the standing 35 U.S.C. § 103(a) rejection of dependent claim 16 as being unpatentable over Sasaki, Morrill, Lewis, and Wada since the Appellants have not challenged such with any reasonable specificity, thereby allowing claim 16 to stand or fall with parent claim 10 (see *In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987)).

DECISION

The decision of the Examiner to reject claims 10, 11, and 16 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2010).

AFFIRMED

JRG